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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,018	03/29/2007	Artur Schworer	088860-000000US	3942
20350 7590 09/27/2011 KILPATRICK TOWNSEND & STOCKTON LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER SAFAVI, MICHAEL				
ART UNIT 3637		PAPER NUMBER		
NOTIFICATION DATE 09/27/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/585,018

Applicant(s)

SCHWOERER, ARTUR

Examiner

MICHAEL SAFAVI

Art Unit

3637

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 22-29 and 31-41 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 22-29, 31-33 and 35-40 is/are rejected.
- 8) ☒ Claim(s) 34 and 41 is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-SB-005)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 30, 2010 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-29, 32, 38, and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26, line 2, “the outer sides of the formwork elements” lacks antecedent basis within the claim. It is therefore, not clear as to what “the outer sides of the formwork elements” refers.

Claim 28, the language within lines 2-3 appears vague and indefinite and thus, confusing as it is not understood as to what is being defined by “housing at which the coupling element is shaped”. What particularly, is being defined by “at which the coupling element is shaped”? How is an element shaped at another element?

Claim 32, line 2, to which locking element does “the locking element” refer?

Claim 36, the language within lines 2-4 appears vague and indefinite and thus, confusing as it is not understood as to what is being defined by "the length of a section of the thread sleeve projecting out of the locking element". Initially, "the length of a section of the thread sleeve projecting out of the locking element" lacks antecedent basis within the claim. It is therefore, not clear as to what "the length of a section of the thread sleeve projecting out of the locking element" refers. Further, it is not clear as to what is being defined by "a formwork element cooperating with the locking element". Is this "formwork element" yet another formwork element and if so, it is not clear as to the relationship between the "a formwork element" and any of the elements of the claimed "formwork system".

Claim 38, the language within line 2 appears vague and indefinite and thus, confusing as it is not understood as to what is being defined by "housing blocks are held in the housing". The specification does not appear to set forth multiple locking blocks within each of the housings.

Claim 39, line 3, to what does "another locking block" refer? Would this be yet another locking block introduced into the claimed invention and if so, it is not clear as to the relationship between the "another locking block" and any of the elements of the claimed "formwork system".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 24, 28, 29, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Leonard 2,992,468. As for **claims 22, 24 and 33**, Leonard discloses,

Figs. 3 and 6 for example, a formwork system, comprising:

formwork elements 11, 11 which have mutually oppositely disposed formwork inner surfaces; and

formwork ties,

wherein the formwork elements are connected to one another and spaced apart from one another by the formwork ties,

wherein at least one of the formwork ties comprises a bolt element 17 and two locking elements, 13/14/14, (right side of Fig. 1), and 13/14/14, (left side of Fig. 1), that are respectively coupled at two mutually remote end regions of the bolt element,

wherein the locking elements abut the formwork elements to transmit tensile forces from the formwork elements onto the bolt element: and have coupling elements 13 that are removably engaged with the formwork elements 11 and structurally configured to transmit the transmission of compressive forces from the formwork elements onto the bolt element 17,

wherein one of the locking elements 13/14/14, (right side of Fig. 1), is captively connected to the bolt element and the other locking element 13/14/14, (left side of Fig. 1), is releasably connectable to the bolt element,

wherein the bolt element is rotatably journaled around a longitudinal axis in the captively connected locking element.

As for **claims 28 and 29**, the locking element 13/14/14 possesses a parallelepiped shape by virtue of forming a rectangular area having open ends/sides.

Claims 22, 24, 26-29, 31, 32, 35, and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by German reference DE 10336414, (DE '414).

DE '414 discloses, Figs. 1 and 3 for example, a formwork system, comprising: a formwork system, comprising:

formwork elements 21, 22 which have mutually oppositely disposed formwork inner surfaces; and

formwork ties,

wherein the formwork elements are connected to one another and spaced apart from one another by the formwork ties,

wherein at least one of the formwork ties comprises a bolt element 10 and two locking elements 260 that are respectively coupled at two mutually remote end regions of the bolt element,

wherein the locking elements abut the formwork elements, (abut 24), to transmit tensile forces from the formwork elements onto the bolt element: and have coupling

elements, (251 and 252 respectively), that are removably engaged with the formwork elements and structurally configured to transmit the transmission of compressive forces from the formwork elements onto the bolt element,

wherein one of the locking elements 260, (right side of Fig. 1a), is captively connected to the bolt element and the other locking element 260, (left side of Fig. 1a), is releasably connectable to the bolt element,

wherein the bolt element is rotatably journaled around a longitudinal axis in the captively connected locking element by virtue of 102 being rotatable within locking element 260, (left side of Fig. 1a).

The coupling element 231 is hooked-shaped to hook with undercuts 236, 24 of the formwork elements 23. The locking elements 260 are substantially parallelepiped shaped housing.

As for **claims 26 and 27**, undercuts, (formed along 231, i.e., where 231 hooks), are provided at the outer sides of the formwork elements with the coupling elements being hook-shape as at 231 to hook with the undercuts.

As for **claims 28 and 29**, the locking element 260 possesses a parallelepiped shape as can be seen in Fig. 3 and is open at two oppositely disposed sides ends/sides as can be seen by the openings through each side/end.

As for **claim 31**, the bolt 10 includes a square or hexagon contact surface as can be seen at 12 of Fig. 2b.

As for **claim 32**, the bolt 10 includes a thread as at 13.

As for **claims 35 and 37**, thread sleeve into which bolt 10 can be screwed is at 251/253 captively connected to the locking element 260.

As for **claims 38 and 39**, locking blocks within the housings are at 251, 252 respectively with one locking block 251 fixedly connected to a thread sleeve 253 while the bolt element is rotatably journaled in another locking block 252.

As for **claim 32**, the locking elements each include mutually aligned bolt holes at mutually oppositely disposed sides as for example, where the bolt extends through.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard 2,992,468 in view of Fontaine 2,620,542

Fontaine teaches application and utilization of a plurality of form panels along either side of a set of parallel form panels within a form assembly employing ties. Therefore, to have provided the Leonard form assembly with a plurality of form panels along either side of a set of parallel form panels, thus allowing for any size of form assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Fontaine.

Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference DE 10336414, (DE '414) in view of Fontaine 2,620,542

Fontaine teaches application and utilization of a plurality of form panels along either side of a set of parallel form panels within a form assembly employing ties. Therefore, to have provided the DE '414 form assembly with a plurality of form panels along either side of a set of parallel form panels, thus allowing for any size of form assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Fontaine.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard 2,992,468.

To have provided the Leonard assembly with coupling elements 13 as screws would have been obvious to one having ordinary skill in the art at the time the invention was made with the examiner taking official notice that screws are an old and well known means to connect one element to another. As such, undercuts would be provided at the outer sides of the formwork elements 11 in the form of threads that would extend to the outer sides in order to accommodate the coupling elements 13.

Claims 34 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed August 30, 2010 have been fully considered but they are not persuasive. Applicant's argument with respect to each of Fontaine and Musk et al. as to "wherein the bolt element is rotatably journaled around a longitudinal axis in the captively connected locking element" is convincing with the rejection involving Fontaine under 35 U.S.C. 102 and the rejection involving Musk et al. under 35 U.S.C. 102 having been withdrawn. However, DE '414 discloses "wherein the bolt element is rotatably journaled around a longitudinal axis in the captively connected locking element" as well as "wherein the locking elements...have coupling elements that are removably engaged with the formwork elements and structurally configured to transmit compressive forces from the formwork elements onto the bolt element" as is set forth in the above rejection of claim 22 over German reference DE 10336414. DE '414 does possess element(s) that can serve to transmit compressive forces from element(s) 23 onto the rod as at or along 262 or 231 or 236, etc. Indeed, German reference DE 10336414 can and does bring about the intended or presumed "transmit compressive forces from the formwork elements onto the bolt element". German reference DE 10336414 would inherently convert any potential movement of the formwork elements into a compressive force acting on the bolt particularly, with the respective coupling elements being connected to the respective bolts in a manner as to cause such. The facing members of German reference DE 10336414 can approach each other and if such were to take effect the respective approaching movement of the respective formwork elements would impart a compressive force on the respective bolt element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.- Fri. 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571)272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL SAFAVI/
Primary Examiner, Art Unit 3637

M. Safavi
September 06, 2011